

REGULAR MEETING
OCTOBER 6, 2008

IN CITY COUNCIL
ABSENT:

CONVENED:
ADJOURNED:

1. Minutes, City Council Meeting, September 29, 2008.
2. PUBLIC HEARING: On the Petition by NSTAR to install 115' of 2.00" plastic gas main as a system improvement to supply 397 Stow Rd.
3. PUBLIC HEARING: On the Application for Special Permit from MetroPCS Massachusetts, LLC for proposed installation of a Telecommunications Facility onto the existing water tank located at 97 Arnold St. Ext
4. Communication from the Mayor re: budget transfer request in the amount of \$33,000 which moves \$22,000.00 from Motor Equipment Repairman to Temporary Part-Time Help which would provide coverage for employee injury situation as well as part-time co-op help, and \$11,000.00 from Assistant City Engineer-Streets to Interim Foreman which will move funds from current vacant position to provide coverage by Acting Division Supervisor and Interim Foreman.
5. Communication from the Mayor re: grant money awarded to the Marlborough Fire Department in the amount of \$350.00 from Allied Waste Management for the purchase of consumable rescue truck supplies.
6. Communication from the Mayor re: reappointment of James Natale to the Zoning Board of Appeals with no term associated with said appointment.
7. Communication from the Mayor re: history of the Municipal Aggregation Plan.
8. Communication from Donald Rider, City Solicitor re: MetroPCS Massachusetts, LLC, Special Permit for 445 Simarano Dr. in proper form.
9. Communication from the City Clerk re: 2008 State Election Call.
10. Communication from NSTAR to install 375' of 2.00" plastic gas main as a system improvement to supply 56 & 58 Framingham Rd.
11. Communication from NSTAR to install 320' of 2.00" plastic gas main as a system improvement to supply 491 Northboro Rd.
12. Communication from Nation Grid to relocate pole #90 & #91 on Robin Hill St.
13. Application for a Special Permit from Omnipoint Communications Inc. to install, operate and maintain a wireless communication facility at 249 Miles Standish Dr.
14. Communication from Attorney Bergeron, on behalf Gary White, Trustee of 566 Lincoln St. Realty and 574 Lincoln St. Realty Trust, re: request to extend time limitations to construct 19 new townhouse condominium units on Lincoln St., Map 80, parcels 47, 48 & 51, (#08-1001877) to December 15, 2008 at 5:00 PM.
15. Communication from Attorney Bergeron, Permit on behalf of Toll MA Land Limited Partnership, re: request to extend time limitations to construct 80 units on less than 14 acres and to revise current permit conditions accordingly, (#08-1001938) to December 15, 2008 at 5:00 PM.
16. Communication from Attorney McAllister, on behalf of Richard and Kathleen Hureau, re: request for easement as shown on Assessor's map as Map 48, Parcel 32.
17. Minutes, Planning Board, September 8, 2008.

REPORTS OF COMMITTEES:

18. RESOLVED: That the Marlborough City Council stands in support of the freeze by Mayor Stevens on all discretionary spending; and further, that the City Council expresses its concern for the current status of state revenues, anticipated to be running approximately \$200 million less than anticipated. Given the financial state of the Commonwealth, the City Council hereby issues its unanimous support for any and all options available to reduce spending through the end of FY2009, including but not limited to a hiring freeze, and applauds Mayor Stevens for her steady handling of the fiscal reins.....Submitted by: Councilors Delano, Ferro, Schafer, Juare, Seymour, Clancy, Levy, Pope, Vigeant, Ossing

19. **ORDERED:** That the Mayor be requested to work with departmental managers to determine potential areas where they could cut their budgets should cuts in the FY2009 budget become necessary due to the financial situation facing the Commonwealth; and further, that the Mayor provide the City Council a report detailing those cuts on department-by-department basis by the City Council's November 10, 2008 meeting.....Submitter by Councilor Schafer

UNFINISHED BUSINESS:

From Urban Affairs Committee

20. **Order No. 08-1001805A – Application for Special Permit from Ming Wang for conversion of former State Armory building into twelve residential condominiums in a Business B/Residence C zoned lot at 358-364 Lincoln St. Recommendation of the Urban Affairs Committee is to deny 3-0. Councilor Seymour abstained and Councilor Juairé was absent.**

From Wireless Communication Committee

21. **Order No. 08-1001952A-1 – Application for Special Permit from MetroPCS Massachusetts LLC for proposed installation of a telecommunications facility onto the existing telecommunications tower located at 445 Simarano Dr. Recommendation of the Wireless Communication Committee is to Suspend the Rules to refer to City Solicitor to be put in proper form and place item on the October 6, 2008 agenda 3-0.**



**CITY OF MARLBOROUGH
OFFICE OF CITY CLERK**

**Lisa M. Thomas
140 Main St.**

**Marlborough, MA 01752
(508) 460-3775 FAX (508) 460-3723
SEPTEMBER 29, 2008**

Regular meeting of the City Council held on Monday SEPTEMBER 29, at 8:00 p.m. in City Council Chambers, City Hall. City Councilors present: Levy, Ossing, Pope, Vigeant, Delano, Ferro, Schafer, Juaire, Seymour, Clancy and Landers. Meeting adjourned at 9:50 p.m.

- ORDERED: Minutes, City Council Meeting, September 8, 2008, **FILE**; adopted.
- ORDERED: Now being the time set for the PUBLIC HEARING On the Application Attorney Arthur Bergeron, on behalf of 890 Post Rd LLC, re: modified version of adopting proposed New Car Dealership Overlay District, all were heard who wish to be heard, hearing adjourned at 9:15 p.m.
- ORDERED: That the City Council meeting recessed at 9:15 p.m. and reconvened at 9:18 p.m., **APPROVED**; adopted.
- ORDERED: That the communication from Diane Smith, City Auditor, providing status update and timeline pertinent to closing of FY08 books and submittals required relative to free cash certification, **FILE**; adopted.
- ORDERED: That the Grant in the amount of \$20,000.00 from the Massachusetts Board of Library Commissioners be awarded to the Marlborough Public Library to improve services aimed at preteens and teen library users through the purchase of additional, age-appropriate selections, staff training, and upgrades to the Young Adult section as outlined in MGL, Chapter 44 Section 53A which stipulates that grant funding be strictly applied to purposes outlined, **APPROVED**; adopted.
- ORDERED: That the Grant in the amount of \$43,000.00 from the Metro/South West Regional Employment Board be awarded to the Human Services Department to pay for two contracted positions-Partnership Director and Career Specialist as well as associated administration expenses to provide job development programs for those between the ages of 16 and 24, as outlined in MGL, Chapter 44 Section 53A which stipulates that grant funding be strictly applied to purposes outlined, refer to **OPERATIONS AND OVERSIGHT COMMITTEE**; adopted.
- ORDERED: That the appointment of Ronald Guest to a vacant position on the Cable Advisory Board with no term associated with said appointment, refer to **PERSONNEL COMMITTEE**; adopted.
- ORDERED: That the reappointments as follows: Alfred Hill & John Usinas to the Commission on Disabilities for terms expiring on November 6, 2011 and Bea Morris and Debra McManus to said Commission for terms expiring on November 6, 2010 & request that Richard Towle be switched to a full Commission member, refer to the **PERSONNEL COMMITTEE**; adopted.
- ORDERED; That the reappointments of John Noble and Gary Brown to the Historical Commission for terms expiring on September 18, 2011, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the reappointment of James Holt to the as Caretaker of Soldiers and Sailors Graves for suggested term expiration of the 1st Monday of February 2010, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the reappointment of Gary Brown as the City's Director of Veteran Aid and Service for a term expiring on September 1, 2011, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the appointment of John Nicholson to the Youth Commission with no term associated with said appointment, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the City Council grant 740-744 Boston Post Rd, LLC a right of way easement to pass and repass over City property shown on the Assessor's map as Map 48, Parcel 32, refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**; adopted.

ORDERED: That there being no objection thereto set **MONDAY, OCTOBER 6, 2008** as date for a **PUBLIC HEARING** on the petition by NSTAR to install 115' of 2.00" plastic gas main as a system improvement to supply 397 Stow Rd., be and is herewith refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That Application from Jack Milgram, on behalf of Ming, Order No. 08-1001805 regarding application for Special Permit for 358-364 Lincoln St. be withdrawn without prejudice, **NOT APPROVED**; adopted.

(Councilor Seymour abstained)

Yea: 9 – Nay: 1

Yea: Delano, Ferro, Schafer, Juairé, Clancy, Landers, Pope, Vigeant & Levy

ORDERED: That the Report of Independent Public Accountants from John Riordan, on behalf of Marlborough 2010 Inc., **FILE**; adopted.

ORDERED: That the minutes, Planning Board, August 13 & 18, 2008, **FILE**; adopted.

ORDERED: That the minutes, MetroWest Regional Transit Authority, July 21, 2008 **FILE**; adopted.

ORDERED: That the following **CLAIMS**, be and is herewith refer to the **LEGAL DEPARTMENT**; adopted.

- A. Sanjay Khanderia, 110 Felton St., property damage & other
- B. Gordon Watson, 10 Cardinal Ct., Stow, vehicle damage
- C. Bruce Duncan, 276 Main St., vehicle damage & personal injury
- D. Chung Lee, 90 Leoleis Dr., property damage

Reports of Committees:

Councilor Pope reported the following out of the Urban Affairs Committee:

Order No. 08-1001805A – Application for Special Permit from Ming Wang for conversion of former State Armory building into twelve residential condominiums in a Business B/Residence C zoned lot at 358-364 Lincoln St. Recommendation of the Urban Affairs Committee is to deny 3-0. Councilor Seymour abstained and Councilor Juairé was absent.

Order No. W/08-1001805 – Communication from Jack Milgram, on behalf of Ming Wang, re: submission of architectural plans to supplement plans previously submitted for Special Permit for 358-364 Lincoln St. Recommendation of the Urban Affairs Committee is to deny 4-0. Councilor Juairé was absent.

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Councilor Delano reported the following out of the Wireless Communications Committee:

Order No. 08-1001952A – Application for Special Permit from MetroPCS Massachusetts LLC for proposed installation of a telecommunications facility onto the existing telecommunications tower located at 445 Simarano Dr. Recommendation of the Wireless Communication Committee is to Suspend the Rules to refer to City Solicitor to be put in proper form and place item on the October 6, 2008 agenda 3-0.

Suspension of Rules requested - granted

ORDERED: That the application for Special Permit from MetroPCS Massachusetts LLC for proposed installation of a telecommunications facility onto the existing telecommunications tower located at 445 Simarano Dr., refer to **CITY SOLICITOR TO BE PUT IN PROPER FORM**; adopted.

ORDERED: That the Commissioner of Public Works inventory all major storm water culverts throughout the city and assess the condition of these culverts for the purposes of identifying those with safety or operational deficiencies which should be considered for repair or replacement through future capital program or other funding, refer to the **DPW COMMISSIONER**; adopted.

ORDERED: That the Application for Fuel Storage License, Ayoub Engineering on behalf of ExxonMobile Corp, 260 West Main St., **APPROVED**; adopted.

ORDERED: That the reappointment of Larry Wenzell to the Arts Lottery Council whose two term expires on May 1, 2010, **APPROVED**; adopted.

ORDERED: That the City Council of the City of Marlborough hereby appropriates the sum of \$3,100.00 from the Belleview Avenue Sewer Account, number 30542306-55951, for the purposes of awarding damages for the acquisition of a permanent municipal utility easement by Eminent Domain in a certain strip of land located at the end of Belleview Avenue consisting of approximately 818 ± square feet, now or formerly owned by Richard C. DiMatteo and Jacqueline T. Di Matteo, **APPROVED**; adopted.

Yea: 11 – Nay: 0

Yea: Delano, Ferro, Schafer, Juairé, Seymour, Clancy, Landers, Ossing Pope, Vigeant & Levy

ORDERED: EMINENT DOMAIN ORDER OF TAKING

WHEREAS, in the opinion of the City Council of the City of Marlborough, the common convenience, public welfare, and necessity require that the land described herein be taken for a permanent municipal utility easement for the purposes of construction and maintenance of general municipal utilities, including water, sewer, and drain lines; and

WHEREAS, this land is necessary for the protection of the health, welfare and safety of the residents of Marlborough; and

WHEREAS, the City Council of the City of Marlborough has determined that the taking of a permanent municipal utility easement by Eminent Domain in, on, under, over, across and through the herein described land is necessary and reasonable to carry out the aforementioned purpose; and

WHEREAS, all preliminary requirements have been complied with;

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NOW, THEREFORE, IT IS HEREBY ORDERED that the City Council of the City of Marlborough by virtue of the authority and the power conferred by the City Charter and by virtue of the applicable provisions of the Massachusetts General Laws, Chapter 79, and by virtue of every other power and authority thereto enabling, and in the exercise of power and authority conferred by said laws, does hereby take by Eminent Domain a permanent municipal utility easement, including all parcels of land, buildings, trees, and other vegetation thereon, in the following land:

DESCRIPTION OF LAND TAKEN

A strip of land now or formerly of Richard C. DiMatteo, Jr. and Jacqueline T. DiMatteo in Marlborough, Middlesex County, Massachusetts, situated at the end of Belleview Avenue, as shown on the plan entitled "Plan of Taking For Permanent Municipal Utility Easement In Marlborough, Massachusetts, Prepared by: City of Marlborough Department of Public Works, Engineering Division, Scale: 1" = 20', Date: January 18, 2008" and to be recorded at the Middlesex South District County Registry of Deeds together with an attested copy of this Order.

Meaning and intending to take and taking by Eminent Domain a permanent municipal utility easement in land shown as Parcel A as described in the aforementioned plan. For title, see Quitclaim Deed to current owners, Richard C. DiMatteo, Jr. & Jacqueline T. DiMatteo, dated July 7, 2003 and recorded at Middlesex South Registry of Deeds on October 1, 2003 in Book 41087, Page 439. The land consisting of Parcel A as referred to in the description above is also shown on the City of Marlborough Assessors Map as Parcel 93 on Map 43. The total land area being taken for a permanent municipal utility easement consists of approximately 818 ± SF, be and is herewith **APPROVED**.

AWARD

The City Council hereby makes the following award for damages for the owner or owners of record:

<u>Owners</u>	<u>Area</u>	<u>Award</u>
Richard C. DiMatteo, Jr. & Jacqueline T. DiMatteo	818 ± SF	\$3,100.00

Yea: 11 – Nay: 0

Yea: Delano, Ferro, Schafer, Juair, Seymour, Clancy, Landers, Ossing Pope, Vigeant & Levy

ORDERED: That the request for a Sewer Connection Compliance Certification from Brian Marchetti, Senior Project Engineer of Tetra Tech Rizzo, on behalf of First Student Inc., to construct a Bus Facility on Hayes Memorial Drive, **APPROVED** based upon the following conditions:

1. The permit will lapse if connection is not made within 180 days of obtaining all permits.
2. Any excess capacity available after the connection must be returned to the City.
3. The permitted sewer capacity will be 650 GPD; adopted.

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ORDERED: That the request for an extension of a Sewer Permit from David P. Gadbois, on behalf of Gutierrez Co., for Devonshire at 495 Center which is located between Forest St. and Hayes Memorial Dr., **APPROVED** based on following conditions:

1. The sewer connection is limited to 56,000 gpd.
2. The sewer connection shall lapse if the connection is not made within 18 months after the date of final approval.
3. If the total volume is not needed, the surplus shall be returned to the City of Marlborough; adopted.

Councilor Schafer requested to be recorded in opposition.

ORDERED: That the following budget transfer request in the amount of \$91,355.88 which would move funds from Public Safety Stabilization to Police Officer to continue to meet the payroll charges for the two recently added police officers, refer to **BACK TO MAYOR**; adopted.

FROM:

Acct. # 83600-32701 \$91,355.88

Fringes

TO:

Acct. # 12100001-50420 \$91,355.88

Police Officer - Salary

ORDERED: That the drainage project in the Glenbrook neighborhood that is aimed at improving the entrance characteristics of the inlet control structure where Millham Brook enters the closed drainage system for the development be financed by a \$130,000.00 transfer request from Stabilization to Drainage account, **APPROVED**; adopted.

FROM:

Acct. # 836000-11515 \$130,000.00

Stabilization

TO:

Acct. # 19300006-58315 \$130,000.00

Drainage

ORDERED: That the Commonwealth of Massachusetts, the City Council of the City of Marlborough, upon the recommendation of the Mayor, does, to be effective during fiscal year 2009, authorize the establishment of a revolving fund to be utilized by the Mayor. It is further ordered that:

- (a) receipts credited to the fund shall be limited to an emergency dispatch fee due the City pursuant to its contract with Patriot Ambulance, unless otherwise directed by the General Laws; and
- (b) that expenditures from said fund shall be limited to public safety training; and
- (c) that the Mayor shall be the only officer authorized to approve expenditures from the same; and
- (d) no more than forty-five thousand dollars shall be expended during Fiscal Year 2009, unless otherwise authorized by the City Council and Mayor; and
- (e) the Mayor shall prepare a year-end report identifying funds received, funds expended, description of expenditures and year-end balance; and
- (f) no provisions of this order shall be changed unless approved by the Mayor and City Council, **APPROVED**; adopted.

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 9:50 p.m.

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IN CITY COUNCIL

Marlborough, Mass., SEPTEMBER 29, 2008

ORDERED:

That there being no objection thereto set **MONDAY, OCTOBER 6, 2008** as date for a **PUBLIC HEARING** on the petition by NSTAR to install 115' of 2.00" plastic gas main as a system improvement to supply 397 Stow Rd., be and is herewith refer to **PUBLIC SERVICES COMMITTEE**.

ADOPTED

ORDER NO. 08-1002005



IN CITY COUNCIL

3

Marlborough, Mass., AUGUST 18, 2008

ORDERED:

That there being no objection thereto set **MONDAY, OCTOBER 6, 2008** as date for a **PUBLIC HEARING** on the Application for Special Permit from MetroPCS Massachusetts, LLC for proposed installation of a Telecommunications Facility onto the existing water tank located at 97 Arnold St. Ext., be and is herewith **REFER TO WIRELESS COMMUNICATION COMMITTEE AND ADVERTISE.**

ADOPTED

ORDER NO. 08-1001971



RECEIVED
OCT - 2 2008
CITY OF MARLBOROUGH

City of Marlborough

Office of the Mayor

140 Main Street

Marlborough, Massachusetts 01752

Tel. (508) 460-3770 Facsimile (508) 460-3698 TDD (508) 460-3610

Nancy E. Stevens
MAYOR

Karen H. Kisty
EXECUTIVE AIDE

Diane C. Halper
EXECUTIVE SECRETARY

October 1, 2008

Council President Arthur G. Vigeant
Marlborough City Council
Marlborough City Hall – 2nd Floor
140 Main Street
Marlborough, MA 01752

Honorable President Vigeant and Councilors:

Attached please find a budget transfer request in the amount of \$33,000 which breaks down as follows:

\$22,000 from Account No. 14001403-50745 (Motor Equipment Repairman) to Account No. 14001403-51240 (Temporary Part-time Help) which would provide coverage for employee injury situation as well as part-time co-op help through the balance of this fiscal year.

\$11,000 from Account No. 14001301-50660 (Assistant City Engineer – Streets) to Account No. 14001303-51470 (Interim Foreman) which will move funds from a current vacant position to provide for coverage by Acting Division Supervisor and Interim Foreman.

As always, please feel free to call with any questions or concerns.

Sincerely,

Nancy E. Stevens
Mayor

**CITY OF MARLBOROUGH
BUDGET TRANSFER REQUEST**

DEPT: Department of Public Works

DATE: 9/24/2008

FY: 09

FROM ACCOUNT:

Amount \$22,000.00 Fund 14001403 Object 50745 Account Description: Motor Equip. Repairman
 Reason: Money available due to employee injury vacancies in this division.

Amount \$11,000.00 Fund 14001301 Object 50660 Account Description: Assistant City Engineer Streets
 Reason: Money available due to currently open position

Amount _____ Fund _____ Object _____ Account Description: _____
 Reason: _____

Amount _____ Fund _____ Object _____ Account Description: _____
 Reason: _____

TO ACCOUNT:

Fund 14001403 Object 51240 Account Description: Temporary Part Time Help
Transfer needed to cover part-time help due to employee injury and part-time co-op help for remaining fiscal year.

Fund _____ Object _____ Account Description: _____
 Fund 14001303 Object 51470 Account Description: Interim Foreman
Transfer needed to cover Acting Division Supervisor and Interim Foreman

Fund _____ Object _____ Account Description: _____

Fund _____ Object _____ Account Description: _____

Department Head Signature: _____

[Handwritten Signature]
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TRANSFER REQUEST

10/6/2008

FROM ACCOUNT		TO ACCOUNT					
AVAILABLE BALANCE	AMOUNT	ORG CODE	OBJECT	ACCOUNT DISCRIP	AMOUNT	ACCOUNT DISCRIP	AMOUNT AVAIL
		DPW Fleet Maintenance					
\$ 122,456.76	\$ 22,000.00	14001403	50745	Motor Equi Repman	\$ 22,000.00	14001403	51240 Temp PT Help \$ (3,729.75)
		DPW Engineering					
\$ 77,790.00	\$ 11,000.00	14001301	50660	Ass. City Eng	\$ 11,000.00	14001303	51470 Interim Foreman \$ (2,405.98)
	\$ 33,000.00	Total			\$ 33,000.00		

Reason: See attached transfer request.

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City of Marlborough
Office of the Mayor

140 Main Street
Marlborough, Massachusetts 01752
Tel: (508) 460-3770 Facsimile (508) 460-3698 TDD (508) 460-3610

Nancy E. Stevens 51
MAYOR

Karen A. Kistly
EXECUTIVE AIDE

Diane C. Halper
EXECUTIVE SECRETARY

OCT - 2 2008
CITY OF MARLBOROUGH
October 2, 2008

Council President Arthur G. Vigeant
Marlborough City Council
Marlborough City Hall – 2nd Floor
140 Main Street
Marlborough, MA 01752

Honorable President Vigeant and Councilors:

The Marlborough Fire Department has been awarded a gift from Allied Waste Management in the amount of \$350 which is intended for the purchase of consumable rescue truck supplies such as masks, rubber gloves, various medical supplies.

Massachusetts General Law Chapter 44 Section 53A ½ stipulates that, with City Council (and if provided by its Charter, Mayoral) approval, gifts of tangible personal property can be accepted from the federal government, a charitable foundation, private corporation, individual, the Commonwealth (or any political subdivision thereof) and may, in its sole discretion and authority, use said gifts for purposes outlined or, if no restriction are attached, for other purposes as it deems advisable.

I request your approval of the acceptance of Allied Waste Management's gift to the City.

As always, please feel free to call with any questions or concerns.

Sincerely,

Nancy E. Stevens
Mayor



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City of Marlborough

FIRE DEPARTMENT

215 Maple Street, Marlborough, Massachusetts 01752
Business (508) 460-6986 Facsimile (508) 460-3795

October 2, 2008

The Honorable Nancy E. Stevens, Mayor
City of Marlborough
140 Main Street
Marlborough, MA 01752

Dear Mayor Stevens,

Attached please find documentation in support of a gift in the amount of \$350.00 which has been donated to the Fire Department by AWIN Management Inc., C/O Allied Waste North America, Inc..

The donation will be used to replenish disposable items used during emergency incidents such as medical supplies, rubber gloves, and masks.

In accordance with Massachusetts General Laws, Chapter 44 Section 53A this gift was accepted by the Fire Department but in order for it to be expended for the purposes of the gift, the Mayor must recommend and the City Council must vote to approve the expenditure.

I would ask that this information be placed on the next council agenda and that you recommend and ask the City Council to approve the expenditure of these funds for the purposes of the donation by the Fire Department.

Thank You,

David Adams
Fire Chief

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CITY OF MARLBOROUGH
NOTICE OF G IFT AWARD

DEPARTMENT: Fire DATE: October 2, 2008

PERSON RESPONSIBLE FOR GRANT EXPENDITURE: David Adams, Fire Chief

NAME OF GRANT: AWIN Management Inc. Donation

GRANTOR: AWIN Management Inc.

GRANT AMOUNT: \$350.00

GRANT PERIOD: not defined

SCOPE OF GRANT/ Rescue equipment and supplies

ITEMS FUNDED Replenish medical supplies and equipment for rescue truck

IS A POSITION BEING
CREATED: No

IF YES: CAN FRINGE BENEFITS BE PAID FROM GRANT? _____

ARE MATCHING CITY
FUNDS REQUIRED? No

IF MATCHING IS NON-MONETARY (MAN HOURS, ETC.) PLEASE SPECIFY:

IF MATCHING IS MONETARY PLEASE GIVE ACCOUNT NUMBER AND DESCRIPTION OF CITY FUNDS TO
BE USED:

ANY OTHER EXPOSURE TO CITY?
No

IS THERE A DEADLINE FOR CITY COUNCIL APPROVAL: No

DEPARTMENT HEAD MUST SUBMIT THIS FORM, A COPY OF THE GRANT APPROVAL, AND A COVER
LETTER TO THE MAYOR'S OFFICE REQUESTING THAT THIS BE SUBMITTED TO CITY COUNCIL
FOR APPROVAL OF DEPARTMENT TO EXPEND THE FUNDS RECEIVED FOR THE PURPOSE OF THE GRANT



City of Marlborough
Office of the Mayor

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Marlborough, Massachusetts 01752
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Nancy E. Stevens 6
MAYOR

Karen A. Kistly
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October 1, 2008

Council President Arthur G. Vigeant
Marlborough City Council
Marlborough City Hall – 2nd Floor
140 Main Street
Marlborough, MA 01752

Honorable President Vigeant and Councilors:

I am submitting herewith for reappointment to the Zoning Board of Appeals the name of James Natale. Mr. Natale has served for many years as Chair of the ZBA and has worked well in this capacity to ensure the following of all proper procedures and adherence to the City's zoning regulations.

As always, please feel free to call with any questions or concerns.

Sincerely,

Nancy E. Stevens
Mayor



City of Marlborough
Office of the Mayor

140 Main Street
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Nancy E. Stevens
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October 2, 2008

Arthur Vigeant
President
Marlborough City Council

RE: Municipal Aggregation

Dear President Vigeant and Members:

I wish to provide the city council with a concise history of the city of Marlborough's municipal aggregation plan ("the Plan"), as I believe it appropriate that the council evaluate that Plan again, nearly 2 years after it began.

On November 6, 2006, the council voted to accept the Plan, known as Community Choice Power Supply (Order No. 06100-1337A, attached hereto). By this vote, the council authorized the mayor to have exclusive authority to execute a binding contract, called an Electric Supply Agreement ("ESA"), with an electricity supplier that was to be selected by the mayor after consultation with 2 councilors, the chief procurement officer and the public facilities director. Three such suppliers submitted proposed ESAs to the City, namely, ConEdison Solutions, Direct Energy and Dominion Retail. Those ESAs were reviewed by the Legislative & Legal Affairs Committee and approved by the full council. The order further specified that the initial contract was to be limited to a maximum term of 12 months, and that the residential class rate was to be lower than the prevailing Basic Service rate offered by National Grid.

On March 12, 2007, the council voted to amend Order No. 06100-1337A by approving proposed ESAs submitted by 2 additional suppliers, namely, Gexa Energy, LLC and Hess Corporation (Order No. 06100-1337A, attached hereto).

In April 2007, after consultation with 2 councilors, the chief procurement officer and the public facilities director, I executed a 6-month ESA with ConEd Solutions, covering the period from June 1, 2007 through December 31, 2007. In August 2007, I signed a 6-month extension of that ESA, extending the City's contract with ConEd Solutions until after the first meter read date in June 2008. Both the original 6-month ESA and its 6-month extension locked in residential pricing that was at least 1 mil per kilowatt-hour (\$0.001/kWh) less than National Grid's Basic Service rate.

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Meanwhile, the City's agent, Colonial Power Group ("CPG"), through its ongoing efforts to analyze the market and negotiate favorable bids from the 5 council-approved suppliers, was discovering that the bids tended to become more favorable to the City the longer the period being bid upon. In other words, a bid for, say, a 5-year period tended to be more favorable to the City than a bid for the 12 months previously authorized by the council as the initial pilot period.

Accordingly, on February 11, 2008, the council voted to extend the time period not to exceed 5 years, during which, once again, the mayor, after consultation with 2 councilors appointed by the council president, the chief procurement officer and the public facilities director, would continue to have exclusive authority to execute an ESA with a selected supplier (Order No. 08-1001779A, attached hereto). Such authority included the exclusive authority to amend an executed ESA regarding non-substantive issues and to report any such amendments to the council.

At a meeting I convened with the appointed councilors, the chief procurement officer and the public facilities director on February 21, 2008, we were informed by CPG that energy costs had skyrocketed 20% so far in 2008. This meant that no council-approved supplier was able at that time to offer residential pricing that was at least 1 mil per kilowatt-hour less than National Grid's Basic Service Rate. Consequently, after consultation with the meeting members, I determined I would not accept any bids and would not execute any ESA at that time.

Eventually, the 6-month ESA extension with ConEd Solutions expired after the first meter read date in June 2008, and I temporarily suspended the Community Choice Power Supply program. All participating customers were notified of this suspension, temporarily returning them to basic service with National Grid.

On August 25, 2008, I again convened a meeting with the appointed councilors, the chief procurement officer and the public facilities director. We were informed by CPG that energy costs had fallen compared with those prevailing in February 2008. We were also informed by CPG that only ConEd Solutions had submitted a bid, which turned out to be at least 1 mil per kilowatt-hour less than National Grid's Basic Service rate. However, ConEd Solutions guaranteed that residential pricing for only the 6-month period to begin on November 1, 2008 and expiring on April 30, 2009, and premised that pricing on the City's entering into a 5-year ESA with ConEd Solutions with no residential guarantees offered for the remaining 4½ years on the contract. Consequently, after consultation with the meeting members, I determined I would not accept ConEd Solutions' bid at that time.

Last month, we were informed by CPG that it had been able to negotiate an 18-month guaranteed bid from ConEd Solutions for an 18-month ESA to begin on November 1, 2008 and expiring on April 30, 2010. The guaranteed residential pricing for the first 6 months was at least 1 mil per kilowatt-hour less than National Grid's Basic Service rate, while the guaranteed savings for each of the next 2 6-month periods was reduced to one-half of a mil per kilowatt-hour (\$0.0005/kWh).

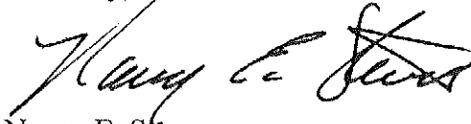
This time, however, I decided not to convene a consultation meeting. A fair question has arisen whether the Plan is serving the individual resident of Marlborough in the manner and to

73

the extent first envisioned by the council nearly 2 years ago relative to cost savings on the individual resident's electric bills. This is particularly so where I and other city officials have become aware of concerns and/or frustrations shared by some residents as to the process they need to follow if and when they decide to opt out of the Plan, and the confusion that sometimes results when utility billing formats are switched. It is that policy question which I hereby present to the council for its evaluation.

As always, please feel free to call me with any questions or concerns.

Sincerely,



Nancy E. Stevens
Mayor

Enclosures



IN CITY COUNCIL

74

Marlborough, Mass., NOVEMBER 6, 2006

ORDERED:

That the City Council APPROVE the Municipal Aggregation as follows:

- 1) Accept the City of Marlborough "Aggregation Plan" (Community Choice Power Supply) as amended by the DTE, be and is herewith APPROVE.
- 2) Accept all three "Competitive Electric Supply Agreements" from Con Ed Solutions, Direct Energy and Dominion Retail as amended, be and is herewith APPROVE.
- 3) They also recommended that the initial contract would be limited to a 12 month maximum term, be and is herewith APPROVE.
- 4) Requirement that the R-1 (residential) class rate be lower than the prevailing National Grid Basic Service Rate, be and is herewith APPROVE.
- 5) The recommendation that the Council pass an order allowing the Mayor in concert with two City Councilors the Chief Procurement Officer, Public Facilities Director to have exclusive authority to execute a binding agreement with the selected supplier once pricing bids had been received and reviewed and would have the authority to amend the ESAs with regard to non-substantive issues and reporting same to the Council, be and is herewith APPROVE.

ADOPTED
In City Council
Order No. 06100-1337A

Approved by Mayor
Nancy E. Stevens
Date: November 28, 2006

A TRUE COPY
ATTEST:

City Clerk



IN CITY COUNCIL

75

Marlborough, Mass., MARCH 12, 2007 20

ORDERED:

That the Colonial Power Group recently received, on behalf of the City, two additional ESA's. These ESA's have been submitted by GEXA Energy LLC and Hess Corp. These electric suppliers wish to participate in the aggregation process. Council approval of these ESA's would be required as part of the decision to be issued by the Dept. of Telecommunications and Energy on the municipal aggregation for the City. The legislative and legal Affairs Committee requested both ESAs be amended in Section 17.3 Notices by adding the Mayor as a contact for notices to the City.

a) Motion made by Councilor Ferro, seconded by chair, to approve the GEXA Energy, LLC ESA as amended, be and is herewith APPROVE.

b) Motion made by Councilor Ferro, seconded by chair, to approve the Hess Corporation ESA as amended, be and is herewith APPROVE.

(Councilors Ossing and Schafer abstain)

ADOPTED
In City Council
Order No. 06100-1337A

Approved by Mayor
Nancy E. Stevens
Date: March 15, 2007

A TRUE COPY
ATTEST:

Acting City Clerk

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IN CITY COUNCIL

Marlborough, Mass., FEBRUARY 11, 2008

ORDERED:

Suspension of the Rules requested – granted

That City Council Order No. 06100-1337A, as adopted on November 6, 2006, and as amended on March 12, 2007, is hereby further amended by authorizing the Mayor, after having conferred collectively with two City Councilors appointed by the Council President, the Chief Procurement Officer and the Public Facilities Director, to have the exclusive authority to execute a binding agreement, for a period not to exceed a 5-year maximum term inclusive of any renewals or extensions of said agreement, with the selected supplier once pricing bids have been received and reviewed, as well as the exclusive authority to amend such agreement with regard to non-substantive issues and to report same to the Council, be and is herewith **APPROVED**.

(Councilor Ossing and Councilor Schafer abstained)

ADOPTED

In City Council

Order No. 08-1001779A

Approved By Mayor

Nancy E. Stevens

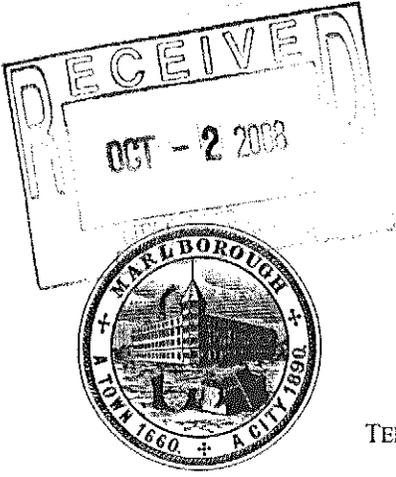
Date: February 19, 2008

A TRUE COPY

ATTEST:

City Clerk

81



**City of Marlborough
Legal Department**

140 MAIN STREET
MARLBOROUGH, MASSACHUSETTS 01752
TEL. (508) 460-3771 FACSIMILE (508) 460-3698 TDD (508) 460-3610
LEGAL@MARLBOROUGH-MA.GOV

DONALD V. RIDER, JR.
CITY SOLICITOR

CYNTHIA M. PANAGORE GRIFFIN
ASSISTANT CITY SOLICITOR

BEVERLY J. SLEEPER
CHIEF PROCUREMENT OFFICER

KATHERINE M. KIMBER
PARALEGAL

October 2, 2008

Arthur Vigeant
President
Marlborough City Council

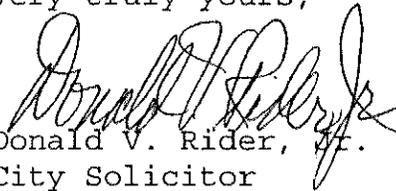
RE: Order 08-1001952A
Special Permit Application
MetroPCS Massachusetts, LLC
445 Simarano Drive

Dear President Vigeant and Members:

Pursuant to Chapter 200-59C(13) of the Marlborough Zoning Ordinance, I provide this letter as to the legal form of the City Council's proposed findings on the special permit application submitted by MetroPCS Massachusetts, LLC for co-location at 445 Simarano Drive. The application is for co-location of six (6) wireless communications panel antennas on an existing telecommunications tower, and one (1) GPS antenna mounted on a proposed ice bridge, as well as placement of the associated equipment within an existing compound on the ground.

I have enclosed a copy of the proposed decision. I certify that that decision is in proper legal form.

Very truly yours,


Donald V. Rider, Jr.
City Solicitor

Enclosure
cc: Francis D. Parisi, Esquire

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October 6, 2008
**DECISION ON A SPECIAL PERMIT
METROPCS MASSACHUSETTS, LLC
CITY COUNCIL ORDER NO. 08-1001952**

Re: 445 Simarano Dr, Marlborough

The City Council of the City of Marlborough hereby GRANTS the application for a Special Permit to METROPCS MASSACHUSETTS, LLC, having a usual place of business at 285 Billerica Rd, Chelmsford, MA as provided in the Decision and subject to the following Findings of Fact and Conditions.

EVIDENCE

1. The Applicant is METROPCS MASSACHUSETTS, LLC, having a usual place of business at 285 Billerica Rd, Chelmsford, MA 01824(hereinafter "Applicant").
2. Through its Application for a Special Permit, the Applicant seeks permission to allow co-location of six (6) wireless communications panel antennas on an existing telecommunications tower, and one (1) GPS antenna mounted on a proposed ice bridge, and supporting equipment on the ground within an existing compound (hereinafter "Proposed WCD Project"), substantially as depicted on a set of plans entitled "CROWN MARLBOROUGH" Chappell Engineering Associates, dated 1/15/08, revised 1/28/08, as submitted with the Special Permit Application, and as further revised 9/16/08 (hereinafter "Plans").
3. The location of the Proposed WCD Project is 445 Simarano Dr. The site is more particularly identified on the Assessor's Map of the City of Marlborough as Map 116 of Lot 1. The owner of record for the site is 445 Simarano Dr Marlborough, LLC.
4. The Applicant is a sub-lessee of Crown Castle International, which owns the existing telecommunications tower at the site and leases the underlying compound area.
5. The Site is zoned I (Industrial). Wireless communication devices are allowed by grant of Special Permit in I (Industrial) Zoning Districts.
6. The Special Permit is being sought pursuant to Article VI, Section 200-25 and Article VIII, Section 200-59 of the Zoning Code of the City of Marlborough.

7. Pursuant to the Rules and Regulations of Application for Special Permit ("Rules and Regulations"), the City Planner certified that the Special Permit application materials are complete and conform to said Rules and Regulations and that the Plans conform in all respects to the City Code.
8. The Applicant has complied with all of the applicable rules of the Rules and Regulations.
9. The City of Marlborough City Council held a public hearing on the Proposed WCD Project on August 18th, 2008, for which proper notice had been published and for which proper notice had been given to all parties entitled to notice under the law.
10. The Applicant presented oral testimony and demonstrative evidence at the public hearing demonstrating that the Proposed WCD Project meets all the applicable Special Permit criteria of Article VI, Section 200-25 and Article VIII, Section 200-59.
11. The Applicant provided further oral testimony and demonstrative evidence to the City Council's Wireless Communications Committee regarding the Proposed WCD Project's compliance with the applicable Special Permit criteria.
12. The Council, in reviewing the Applicant's Special Permit application, considered the Review Standards and Development Requirements, as enumerated in Article VI, Section 200-25 and Article VIII, Section 200-59 of the City of Marlborough Zoning Ordinance, applicable to the proposed Wireless Communications Device.

**BASED UPON THE ABOVE, THE MARLBOROUGH CITY
COUNCIL MAKES THE FOLLOWING FINDINGS OF FACT
AND TAKES THE FOLLOWING ACTIONS**

- A) The Applicant has complied with all the Rules and Regulations promulgated by the Marlborough City Council pertaining to the said Application for a Special Permit.
- B) The Site is an appropriate location for the Proposed WCD Project and the Proposed WCD Project is in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough when subject to the appropriate terms and conditions of this Approval.

- C) The Applicant has complied with the applicable Review Standards and Development Requirements pertaining to Wireless Communications Devices, enumerated in Article VI, Section 200-25 and Article VIII, Section 200-59 of the City of Marlborough Zoning Ordinance, by siting, designing and screening its proposed WCD Project to minimize adverse impact on the abutting neighborhood and on nearby residential properties.

- D) The Council, pursuant to its authority under M.G.L. Chapter 40A and the City of Marlborough Zoning Ordinances, **GRANTS** the Applicant its Special Permit, **SUBJECT TO THE FOLLOWING CONDITIONS NUMBERED 1 THROUGH 11:**
 - 1) The Proposed WCD Project shall be constructed, maintained and operated according to the specifications, terms and conditions of the Applicant's Special Permit Application, as amended during the application/hearing process, and in compliance with the Conditions of the Grant of Special Permit as well as with the conditions set forth in Chapter 200-25F of the Marlborough Zoning Ordinance.

 - 2) All plans, site evaluations, briefs and other documentation provided by the Applicant as part of this Special Permit Application are herein incorporated into and become a part of this Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council.

 - 3) The Applicant shall comply with all rules, regulations, ordinances and statutes of the City of Marlborough, the Commonwealth of Massachusetts and the Federal Government as they may apply to the construction, maintenance and operation of the Proposed WCD Project.

 - 4) All terms, conditions, requirements, approvals, plans and drawings required hereunder are hereby made a part of and incorporated herein as a condition to the issuance of this Special Permit.

 - 5) Applicant shall minimize the visual impacts of the Proposed WCD Project by screening and/or color coordination as may be depicted on the Plans and other demonstrative evidence submitted as part of the Application for Special Permit.

- 6) Applicant shall pay to the City of Marlborough Open Space Account #100-2410-44515, as mitigation for the alleged impacts caused by the subject of this Permit, the annual sum of One Thousand Five Hundred (\$1,500.00) dollars, the first payment due and payable at the time of the issuance of the building permit hereunder, or within one year of the approval of Special Permit, whichever is earlier, and the subsequent payments to be due and payable on January 2, or the first business day thereafter, of each calendar year in which the WCD referenced in this Permit is still in operation. Failure to make the payment in a timely manner shall constitute a violation of the Special Permit, and the Applicant shall pay an additional sum of \$500 per quarter or portion thereof after the payment due date that the Applicant has failed to make payment.
- 7) Applicant shall not utilize a permanent electrical generator, of any type, in connection with the operation of the Proposed WCD Project. Applicant shall be permitted to use a temporary electrical generator in connection with the operation of the Proposed WCD Project only in cases of power outages to the Proposed WCD Project and for purposes of routine testing and maintenance. The noise produced by the temporary generator shall conform to the City's noise ordinance set forth in Chapter 134 of the City Code.
- 8) No operation of this WCD shall commence until the Applicant has received written approval from the Building Inspector that all the above conditions have been satisfied.
- 9) Applicant shall be subject to site plan review if applicable.
- 10) Applicant shall securely attach cables to the outside of the tower in such a manner as to prevent noise and/or other disturbance that would be obtrusive to the neighborhood.
- 11) In accordance with the provisions of Mass. Gen. Laws c.40A, § 11, the Applicant at its expense shall record this Special Permit in the Middlesex South Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Special Permit has elapsed with no appeal having been filed.



CITY OF MARLBOROUGH
OFFICE OF CITY CLERK

That the City Clerk be and is herewith directed to have proper notices issued notifying the VOTERS of the City of Marlborough that the **STATE ELECTION** will be held in the polling locations as noted below on **November 4, 2008** as follows: President/Vice-President, Senator in Congress, Representative in Congress, Councillor, Senator in General Court, Representative in General Court and Register of Probate.

THE POLLS WILL OPEN AT 7:00 A.M. AND WILL CLOSE AT 8:00 P.M.

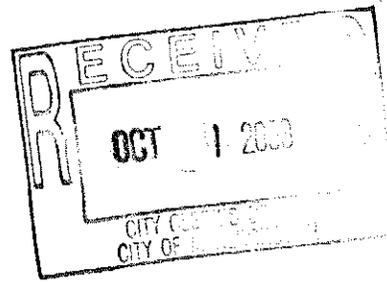
POLLING LOCATIONS ARE AS FOLLOWS:

- | | |
|---------------------------|--|
| WARD ONE: Prec. 1 and 2 | Francis J. Kane School, 520 Farm Rd. |
| WARD TWO: Prec. 1 and 2 | Francis J. Kane School, 520 Farm Rd. |
| WARD THREE: Prec. 1 | Masonic Hall, 8 Newton St., corner of Main/Newton Sts, rear |
| WARD THREE: Prec. 2 | Raymond J. Richer School, 80 Foley Rd., gymnasium |
| WARD FOUR: Prec. 1 and 2 | Boys & Girls Club, 169 Pleasant St. |
| WARD FIVE: Prec. 1 | Senior Center, 250 Main St. |
| WARD FIVE: Prec. 2 | Masonic Hall, 8 Newton St., corner of Main/Newton Sts., rear |
| WARD SIX: Prec. 1 and 2 | Marlborough Middle (Intermediate) School, 25 Union St, Library |
| WARD SEVEN: Prec. 1 and 2 | Hildreth School Gymnasium, 85 Sawin St. |

The Information for Voters booklet is available in the City Clerk's Office which explains the three ballot questions or you may type the following URL via your Internet browser to access the PDF file to print:
http://www.sec.state.ma.us/ele/elepdf/IFV_2008.pdf



One NSTAR Way
Westwood, Massachusetts 02090



101

September 29, 2008

Ms. Lisa M. Thomas
City Clerk
City Hall
140 Main Street
Marlborough, MA 01752

Marlborough City Council,

Please approve for Grant purposes the following plan:

To install 375' of 2.00" plastic gas main as a system improvement to supply 56 & 58 Framingham Rd. in Marlborough as follows.

Framingham Rd. – From Dartmouth St. northwesterly to 56 & 58 Framingham Rd..

Respectfully,

A handwritten signature in cursive script that reads "Brian Blood".

Brian Blood
Manager of Gas Distribution
Southborough
508-305-6884
NSTAR Gas
157 Cordaville Rd.
Southborough, MA. 01772

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Thomas, Lisa

From: Lashmit, Tom
Sent: Thursday, October 02, 2008 9:40 AM
To: Thomas, Lisa
Subject: Framingham Road #56-58, Northboro Road #491

Lisa,

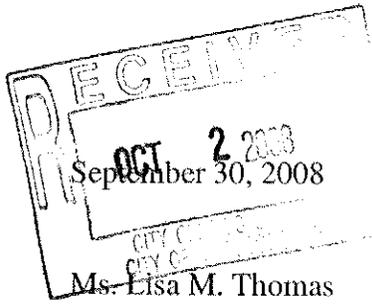
I have received and reviewed the plans for both the gas main extensions at Framingham Road #56-58 and Northboro Road #491. These plans are acceptable and meet the requirements of the Engineering Division. We will wait for City Council approval of these extensions before we will release the Road Opening Permit for this work.

Thank you,
Thomas Lashmit
Permit Engineer



One NSTAR Way
Westwood, Massachusetts 02090

///



Ms. Lisa M. Thomas
City Clerk
City Hall
140 Main Street
Marlborough, MA 01752

Marlborough City Council,

Please approve for Grant purposes the following plan:

To install 320' of 2.00" plastic gas main as a system improvement to supply 491 Northboro Rd. in Marlborough as follows.

Northboro Rd. – From the intersection of Boundary St. northeasterly to 491 Northboro Rd..

Respectfully,

Brian Blood
Manager of Gas Distribution
Southborough
508-305-6884
NSTAR Gas
157 Cordaville Rd.
Southborough, MA. 01772

Thomas, Lisa

1/2

From: Lashmit, Tom
Sent: Thursday, October 02, 2008 9:40 AM
To: Thomas, Lisa
Subject: Framingham Road #56-58, Northboro Road #491

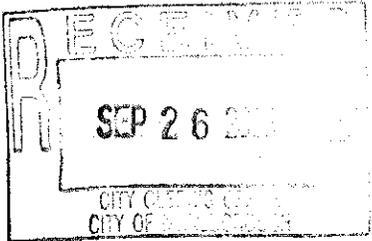
Lisa,

I have received and reviewed the plans for both the gas main extensions at Framingham Road #56-58 and Northboro Road #491. These plans are acceptable and meet the requirements of the Engineering Division. We will wait for City Council approval of these extensions before we will release the Road Opening Permit for this work.

Thank you,
Thomas Lashmit
Permit Engineer

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nationalgrid



September 22, 2008

To the City Council
Marlborough, Massachusetts

Council Members:

Enclosed you will find a petition for Robin Hill Street, Marlborough (Plan # 4975437).

Description: Relocate pole # 90 & 91. This work is being done to provide Mass Hwy with the required working clearances they need from our lines to replace the bridge over the Assabet River.

If you have any questions regarding this petition please contact Linda Hagan @ 508-482-1024.

Thank you for your attention to this matter.

Respectfully yours,

Kevin Hellmuth
Manager of Distribution Design
401-784-7173

KH/lh

Enclosures

CITY OF MARLBOROUGH
OFFICE OF CITY CLERK

APPLICATION TO CITY COUNCIL FOR ISSUANCE OF SPECIAL PERMIT

1. Name and address of Petitioner or Applicant:

Omnipoint Communications, Inc., a wholly owned subsidiary of T-Mobile USA, Inc. 15 Commerce Way, Suite B, Norton, MA 02766

2. Specific location of property Including Assessor's Plate & Parcel Number

249 Miles Standish Drive, Marlborough, MA 01752 Map 20 Block 000 Lot 2

3. Name & address of owner of land if other than petitioner or applicant:

City of Marlborough, 140 Main Street, Marlborough, MA 01752

4. Legal interest of Petitioner or Applicant (owner, lessee, prospective owner, etc.)

Petitioner is a lessee.

5. Specific Zoning Ordinance under which the Special Permit is sought:

Article VI Section 200 Paragraph 25 Sub-Paragraph C(1)

6. Zoning District in which property in question is located:

A1 - Single Residence

7. Specific reason(s) for seeking the Special Permit:

Installation, operation and maintenance of a wireless communications facility including without limitation, a 100' flagpole style tower, antennas, coaxial cables and radio communication equipment cabinets within a proposed fenced compound.

Please see Supporting Statement attached hereto at Tab 2.

8. List of names and addresses of abutters. SEPARATE SHEET ATTACHED.

PETITION IS HEREBY MADE FOR THE ISSUANCE OF A SPECIAL PERMIT BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH AND IS BASED ON THE WITHIN PETITION OR APPLICATION AS FILED HEREWITH AND MADE PART OF SAID PETITION.

Signature of Petitioner or Applicant

Brian S. Grossman, Esq. of
Prince Lobel Glovsky & Tye, LLP
as Attorney for the Applicant.

ADDRESS: 100 Cambridge Street, Suite 2200

Boston, MA 02114

TEL.NO. 617-456-8184

DATE: 9/30/08

14

ARTHUR P. BERGERON
Attorney-at-Law
27 PROSPECT STREET
MARLBORO, MASSACHUSETTS 01752

PHONE (508) 481-0103

FAX (508) 485-8506

Oct. 2, 2008

Councilor Arthur Vigeant, President
Marlborough City Council
City Hall
Marlborough, MA 01752

Re: Gary White, Trustee of 566 Lincoln St. Realty Trust and 574 Lincoln Street Realty Trust, request for Special Permit Order #08-1001877

Dear Councilor Vigeant:

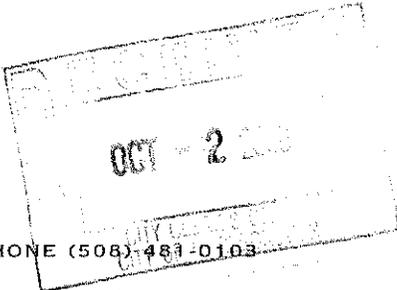
Pursuant to Mass. General Laws Chapter 40A sec. 9, my client Gary White, Trustee, hereby requests that the deadline for City Council action regarding ~~the~~ currently pending request for a special permit be extended to December 15, 2008, *at 5:00 PM*

Very truly yours,



Arthur P. Bergeron

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ARTHUR P. BERGERON
Attorney-at-Law
27 PROSPECT STREET
MARLBORO, MASSACHUSETTS 01752

PHONE (508) 485-0103

FAX (508) 485-8506

Oct. 2, 2008

Councilor Arthur Vigeant, President
Marlborough City Council
City Hall
Marlborough, MA 01752

Re: Toll MA Land Partnership, proposed Revised Special Permit, Order
08-1001938

Dear Councilor Vigeant:

Pursuant to Mass. General Laws Chapter 40A sec. 9, my client Toll MA Land Partnership hereby requests that the deadline for City Council action regarding its currently pending request for a modified special permit be extended to December 15, 2008, *at 5:00 PM*

Very truly yours,

Arthur P. Bergeron

RECEIVED
OCT - 2 2008

16

Kevin P. McAllister
Attorney at Law
P.O. Box 20
Marlborough, Massachusetts 01752

Telephone (508) 485-5500
Fax (508) 485-4491

October 2, 2008

Councilor Arthur Vigeant, President
Marlborough City Council
140 Main Street
Marlborough, MA 01752

Re: easement request

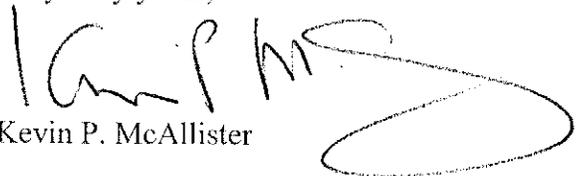
Dear Councilor Vigeant:

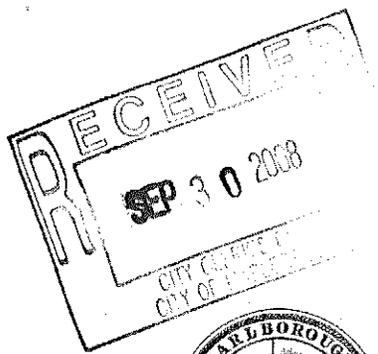
I represent Richard and Kathleen Hureau of 744 Boston Post Road, Marlborough, MA.

They request that the City Council grant them a right of way easement to pass and repass over certain property owned by the City of Marlboro, shown on the Marlboro Assessor's map as Map 48, Parcel 32. This parcel contains part of the driveway and right of way by which they access their home from Boston Post Road.

Thank you.

Very truly yours,


Kevin P. McAllister



*City of Marlborough
Commonwealth of Massachusetts*

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PLANNING BOARD

Barbara L. Fenby, Chair
Steve Kerrigan, Clerk
Philip J. Hodge
Edward F. Coveney
Clyde L. Johnson
Robert Hanson
Sean N. Fay

PLANNING BOARD MINUTES
September 8, 2008
7:00 PM

Carrie Lizotte, Board Secretary
Phone: (508) 460-3769
Fax: (508) 460-3736
Email: CLizotte@marlborough-ma.gov

The Planning Board for the City of Marlborough met on Monday, September 8, 2008 in Memorial Hall, 3rd floor, City Hall, Marlborough, MA 01752. Members present: Barbara Fenby, Chairperson, Steve Kerrigan, Clerk, Clyde Johnson, Philip Hodge, Edward Coveney, Robert Hanson and Sean Fay. Also present: City Engineer Thomas Cullen.

MINUTES

Meeting Minutes August 13, 2008

On a motion by Mr. Kerrigan, seconded by Mr. Johnson, it was duly voted:
To accept and file the meeting minutes.

Meeting Minutes August 18, 2008

On a motion by Mr. Kerrigan, seconded by Mr. Johnson, it was duly voted:
To accept and file the meeting minutes with amended changes.

CHAIR'S BUSINESS

*LDS Approval
City Council Adoption of 200, Article VI, section 200-30*

The City Council has approved and adopted the change in the Limited Development Subdivision that was a submission from the Planning Board. The Planning Board was pleased to see the adoption of the ordinance, however the wording for that adaptation "be and is herewith APPROVED" is being questioned if this is standard language as it tends to be confusing.

On a motion by Mr. Hodge, seconded by Mr. Kerrigan it was duly voted:
To send correspondence to ask the City Clerk if the language "be and is herewith APPROVED" a standard clerical addition of policy.

APPROVAL NOT REQUIRED PLAN

*Phelps Street
ANR Submittal*

Mr. Joel Cain presented the ANR plan to the Planning Board members. He described that he started this process with then City Engineer Ron LaFreniere nearly 10 years ago when he was looking to purchase property to build an additional house for a family member. He has recently purchased from the City Lot 1 with enough frontage along Phelps Street. He is looking for the Planning Board to approve the plan.

*Engineering Correspondence
Informal Review*

Mr. Cullen, the City Engineer, has done an informal review at the Planning Boards request from the August 18, 2008 meeting. He noted that a December 3, 2007 plan was developed to divide land between the City of Marlborough (Sewer takings) into three parcels. Parcel B of this division was created for the purpose of combing the parcel with the property at 107 Phelps Street, creating sufficient frontage to subdivide the property into two lots.

The proposed plan to subdivide the property at 107 Phelps Street into two lots meets all the requirements of the Rules and Regulations for the Subdivision of Land in Marlborough along with the deed restrictions to limit the use of Parcel B for the development of an additional building lot. (Parcel B may not be used as access to the new building lot, access must be made off the driveway for the existing house outside limits of Parcel B). After an informal review, Mr. Cullen would like to give a favorable recommendation for the Planning Board to endorse the plan.

On a motion by Mr. Kerrigan, seconded by Mr. Johnson it was duly voted:

To refer the ANR plan to the City Engineer for a formal review and have him report back to the Planning Board at the next meeting.

PUBLIC HEARING

*7:30 PM
Proposal Amendment in Retirement Community
Public Hearing*

The Planning Board of the City of Marlborough held a public hearing on Monday, September 8, 2008, at 7:30 p.m. in Memorial Hall, 3rd Floor, City Hall, 140 Main Street, Marlborough on the Proposal to Abolish Retirement Community Overlay District and Retirement Communities be an allowable use in all districts with a Special Permit granted by the City Council. Members present: Chairperson Barbara L. Fenby, Clerk Steven Kerrigan, Philip Hodge, Clyde Johnson, Edward Coveney, Robert Hanson and Sean Fay. Also present: City Engineer Thomas Cullen.

The Chair introduced all of the members of the board including the City Engineer and the Planning Board Secretary. She advised the audience that everyone should direct questions to her and she will direct the questions to the proponent or others.

Mr. Kerrigan read the public hearing notice into record.

LEGAL NOTICE

Notice is hereby given that the Planning Board of the City of Marlborough will hold a PUBLIC HEARING on **Monday, September 8, 2008 at 7:30 PM in the Memorial Hall, 3rd floor, City Hall, 140 Main Street, Marlborough Massachusetts for Proposal to Abolish Retirement Community**

Overlay District and that Retirement Communities be an Allowable Use in all Districts with a Special Permit.

Be it ordained by the City Council of the City of Marlborough that the Code of the City of Marlborough, Chapter 200 as amended be further amended by deleting the words "aged fifty-five or older" as part of the definition in ARTICLE II Definitions and Severability Section 200-05 Definitions; Word Usage. B. RETIREMENT COMMUNITY and inserting in place thereof the following words: "fifty-five (55) years of age or over or sixty-two (62) years of age or over"; and

That the Code of the City of Marlborough, Chapter 200 as amended be further amended by adding to ARTICLE V Permitted Uses Section 200-14 Use Regulations Applicable in All Districts the following:

"C. A Retirement Community, as defined in Article II Section 200-05 B hereof, shall be allowed only by grant of a Special Permit by the City Council in accordance with Article VI Section 200-22. Retirement Community"; and

That the Code of the City of Marlborough Chapter 200 Section 200-17 Table of Uses Single family and Single family, attached be amended by adding to each a foot note numbered "(41)"; and

That the Code of the City of Marlborough Chapter 200 Section 200-18 Conditions for Use as Noted in the Table of Uses, be amended by adding the foot note numbered "(41)" which states as follows: "(41) Except as provided for in a Retirement Community under the provisions Sections 200-14 and 200-22."; and

That the Code of the City of Marlborough Chapter 200 Section 200-17 Table of Uses Retirement Community Overlay (Sec. 200-22) as amended be further amended by deleting the word "Overlay" and the symbol "N" under the Zoning District Abbreviations RR, AI, A2, A3, RB, RC, RCR, B and CA and inserting in place thereof for each deleted symbol the symbol "SP"; and

That the Code of the City of Marlborough Chapter 200 as amended be further amended by deleting from Article VI Special Districts, Overlay and Special Requirements, all of Section 20022 Retirement Community Overlay Districts and inserting in place thereof the following:

200-22 Retirement Community

- A. Purpose. The purpose of a Retirement Community shall be to advance the public health, safety and welfare of persons fifty-five (55) years of age or over or sixty-two (62) years of age or over by providing housing in a structure or structures constructed expressly for use as housing for persons fifty-five (55) years of age or over or sixty-two (62) years of age or over on a parcel or on contiguous parcels of land, totaling at least five (5) acres in size, in areas appropriate for residential use.
- B. Location. A Retirement Community may be located in all zoning districts with a Special Permit of the City Council granted under the provisions of Section 200-59 hereof
- C. Permitted Uses. A Retirement Community must comply with the appropriate provisions of Article Y and Article VII, except as otherwise specified herein and consistent with the following provisions:
 - (1) Height of buildings in a Retirement Community shall not be higher than that which is allowed in the zoning district in which the Retirement Community is located and as provided in Section 200-41.
 - (2) The provisions of Section 200-49 shall apply to the location and

construction of the driveways and private ways within the Retirement Community development. All ways and/or driveways in a Retirement Community shall be private and maintained by the Retirement Community. To ensure adequate access for traffic and emergency vehicles within the Retirement Community, and to provide increased public safety for vehicles and pedestrians within the development, the City Council may modify the provisions of Section 200-49.

- (3) Each building in a Retirement Community shall face either upon an existing private or public way or on a private way or driveway constructed within said Retirement Community. Each building shall have a minimum front yard of no less than twenty (20) feet from the edge of the paved way to the closest point of the structure, and a side yard of not less than ten (10) feet from the edge of the paved way to the closest point of the structure. Each building, whether principal or accessory, shall be at least ten (10) feet distant from any other building by air line distance between the nearest points of the buildings.
- (4) No dwelling in a Retirement Community shall contain less than one thousand (1,000) square feet of living area or more than two thousand eight hundred (2,800) square feet of living area. At least fifty (50%) percent of the living area shall be on the first
- (5) The number of dwelling units allowed within a Retirement Community shall be determined by dividing the total square foot area of the development site by the minimum lot area square footage as provided in Section 200-41 for the zoning district in which the development site is located. The number resulting from said division shall be the number of units allowed in the Retirement Community. If the number results in a whole number plus a part of a number the number shall be rounded to the next higher number.
- (6) No part of any building in a Retirement Community shall be less than twenty-five (25) feet from any exterior lot line.
- (7) A town house style dwelling unit in a Retirement Community shall have its own attached yard area.
- (8) Each dwelling unit shall have two parking spaces dedicated to its use, of which at least one space shall be in a garage attached to the unit. The other space shall be adjacent to the building or within close proximity thereof as approved by the City Council. The City Council may, as a condition of the Special Permit, require additional parking areas to be used in common by dwelling unit owners and their invitees.
- (9) The City Council may, as a condition of the Special Permit, require adoption of legally enforceable condominium by-laws or other similar regulations to limit or prohibit the presence in a Retirement Community, either entirely or in designated locations, of boats, boat trailers, campers, or other recreational vehicles.
- (10) The maximum combined lot coverage in a Retirement Community shall be as provided for in the provision of Section 200-41 hereof for the zoning district in which the development site is located.
- (11) Each lot or contiguous lots upon which a Retirement Community is

located shall have total frontage on an existing public way of at least seventy five (75) feet.

- (12) The City Council shall, as a Permit condition, require that deed covenants, proposed condominium by-laws, or similar community regulations prohibit the ownership or residential use of a dwelling unit by a person or persons of less than fifty five (55) years of age or less than sixty-two 62 years of age. Failure to enforce said provisions shall be a violation of the Special Permit.
- (13) The City Council shall, as a Permit condition, require that a proposed Retirement Community be constructed entirely on one lot or contiguous lots, and that, from and after the date of issuance of a building permit for said community or any portion thereof, no subdivision of said lot or lots shall be allowed without the express approval of the City Council; provided, however, that the recording of a condominium master deed and the conveyance of condominium units with the lot covered by the master deed shall be allowed.
- (14) No unit in a Retirement Community shall have more than three (3) bedrooms.

***Per order of the City Council
#08-1001939***

Attorney David Gadbois presented the proposal on behalf of his Client, Mr. Lewis Clark of 710 Pleasant Street. Mr. Clark presently owns the property and is looking to develop the property into a retirement community. In the past, Mr. Clark tried to develop a traditional subdivision, now he would rather develop a retirement community for age qualified of 55 and older. At this present time the Retirement Overlay District is allowed in an LI district and must have at least 15 acres. Mr. Gadbois believes that abolishing the current ordinance and creating a new one would allow a more harmony with being allowed to develop in a residential district. According to Mr. Gadbois, he consulted with the Zoning Officer, Mr. Stephen Reid, who agreed that by developing in a residential district versus a limited industrial district would be more beneficial. Mr. Gadbois also stated that density is a key issue and this new ordinance would allow a less dense area.

The developments would become individual owned condominium units with at least 50% percent of the living space on the first floor and shall contain no less then 1,000 square feet to 2,800 square feet of total gross area. The number of dwelling units would be determined by dividing the total square foot area if the development site by the minimum lot area square footage as provided in Section 200-41 for the zoning district. Each unit would have their own private drive that leads to private streets.

The City Council would ultimately decide where the projects could go with granting special permits. They would be able to attach conditions to the special permits. Attorney Gadbois also stated that he believes with a new ordinance would allow the retirement community more space and pleasant projects.

Mr. Lewis Clark spoke on how the initial plan was to build a conventional subdivision and that after all the engineering work; a retirement community would be a better solution. The City would benefit from having a more residential setting and the roadways would be private. He has met with the neighbors on the potential project and the feedback was positive.

In Favor

Arthur Bergeron
54 Shea Drive

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Mr. Bergeron stated that he believes this new ordinance is a way to improve the current ordinance in place.

In Opposition

No one spoke in opposition.

In General

Mr. Hodge welcomes and finds it refreshing to see the new ordinance that would allow retirement communities to go city wide. He stated to keep in mind that the ordinance should be an advantage to other parcels not just one parcel. Mr. Hodge also asked Mr. Gadbois if there was a limit of ownership; Does one spouse need to be the required age or both spouses? Mr. Gadbois stated that he believes that the States ruling is only one spouse of designated age would have to qualify.

Mr. Hodge also stated that the development does look like a traditional subdivision. What would the biggest difference would be between the two? He also stated that the development should have sidewalks; he also stated the City Council should consider all these benefits before deciding on a new retirement community ordinance.

Ms. Fenby stated that her biggest concern would be living area should all be on one floor and sidewalks should be considered for the safety of all residences.

Mr. Kerrigan stated that since the rewriting of the ordinance is in sense what is being done, it would be nice to have all issues dealt with in the beginning.

Mr. Fay questioned whether the proposed ordinance would allow a greater density than a traditional subdivision in the same zone would allow. Mr. Fay would like for Mr. Gadbois to clarify the amount of lots that would be allowed.

Mr. Coveney and Mr. John both collectively agreed that the current ordinance being in a limited development zone is detrimental to those who live there. They both would rather see the developments in a residential neighborhood.

The Public Hearing closed at 8:30pm.

On a motion by Mr. Kerrigan, seconded by Mr. Coveney it was duly voted:

To reopen the public hearing and have Attorney Gadbois return to the Board with several suggestions that were made.

SUBDIVISION PROGRESS REPORTS

Update from City Engineer

Mr. Cullen stated at this time there were no major updates.

Gristmill III, Carisbrooke I (Farrington Lane)

Correspondence from Legal

Rescinding current bonds

The Planning Board sent correspondence to Legal Department asking their guidance in rescinding the Gristmill III, Carisbrooke I bonds to complete these subdivisions. Tim Collins informed the Planning Board and the Legal Department that there is still necessary work that needs to be completed on both subdivisions and needs to pull the monies to complete the

subdivisions. The Assistant City Solicitor, Cynthia Panagore Griffin, has reviewed and approved the proposed vote relative to a notice of default to Marlborough Savings Bank; the proposed notice of default to be provided to the bank; the proposed vote relative to a sign draft to be presented to the bank; and the proposed sight draft.

On a motion by Mr. Kerrigan, seconded by Mr. Johnson it was duly voted:

To accept and file correspondence from the Assistant City Solicitor; and to sign all necessary papers for the taking of the Gristmill III and Carisbrooke I Performance Bond.

Forest Trail (Mosher Lane)

Correspondence from Conservation Commissioner

The developers violated their Open Space Permit by providing an access road to lot 16. Both Open Space Parcel A and B were to left in there natural state and conveyed to the City as required by the special permit. After a meeting with the City Engineer, Building Inspector and the Planning Board Chairperson; Ms. Ryder listed the following items to be completed:

- Remove Gravel that was placed to create the short access road.
- The area disturbed that is not rock face shall be loamed and stabilized with native grass mix.
- The three trees that were removed in this area must be replaced with five trees at least 1 ½ caliper must be planted along top slope and type of trees must be approved by Ms. Ryder before placement.
- Work must be completed on or before September 30, 2008.

On a motion by Mr. Kerrigan, seconded by Mr. Johnson it was duly voted:

To accept and file correspondence; to ask Ms. Ryder to update the Planning Board of the status of the corrective work for their upcoming meeting on October 6, 2008.

Pembroke Street

Modification of Plan

Correspondence from Engineering

The 26 Pembroke Street Subdivision was a single lot subdivision that was approved by the Planning Board on June 9, 2008. The Proponent had to take the plans to the Zoning Board or Appeals for a variance on lot shape, lot size and frontage. They were granted approval from the ZBA (Case# 1374-2008). Now they have come back before the Board with a revised plan and at the last meeting the Planning Board referred the plan to the City Engineer for his review and to the Building Commissioner for the corrective language.

Thomas Cullen, the City Engineer, reviewed the new modification plan for 26 Pembroke Street and found the following to be true:

- Proponent owns three abutting lots with one single family with a single family home on of these lots
- Two lots are vacant and are undersized to current zoning standards

Stephen Reid, the Building Commissioner had requested the following language be added to the plans before the Planning Board signs the plans:

- Delete language for waiver requests for lots 1 & 2 and add the following language; The Planning Board is responsible for granting a waiver insufficient frontage and the zoning board of appeals for granting variances for lot area, frontage and shape.

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- In Notes; delete the language and add the following; Lots 1 & 2 are not to be considered building lots until a variance has been granted by the Marlborough Zoning Board of Appeals, see Zoning Board of Appeals Case #1374-2008.

On a motion by Mr. Kerrigan, seconded by Mr. Johnson it was duly voted:

To accept and file correspondence; and to have the City Engineer review plans to be reported back to the Planning Board at its next regular scheduled meeting.

PENDING SUBDIVISION PLANS: Updates and Discussion

PRELIMINARY/ OPEN SPACE SUBDIVISION SUBMITTALS/ LDS SUBMITTALS

LDS Submittal

214 Wilson Street

Correspondence from Thomas Land Surveyors

Thomas Dipersio sent correspondence to the Planning Board that the revised plans being presented for "SMC Estates (LDS)" includes the following changes: A 10 foot no-disturb buffer strip that was added along the northerly, westerly and a portion of the southerly lot lines, arborvitae plantings added along a portion of the southerly lot line, note regarding blasting protocol has been added and the proposed right-of-way for the Preliminary Layout has been increased to 50 feet in width.

On a motion by Mr. Kerrigan, seconded by Mr. Hanson it was duly voted:

To accept and file correspondence.

Facts and Findings

Mr. Kerrigan has prepared the Facts and Findings for the special permit. The Facts and Findings showcase the facts that were stated during the public hearing. Mr. Johnson asked for clerical modification to add the revised dates of plans.

Correspondence from City Engineer

Mr. Cullen sent correspondence for his last review of "SMC Estates (LDS)" for 214 Wilson Street. He stated he has reviewed all changes made and that the LDS meets all of the dimensional requirements per City Council Order No. 04-10558C. Mr. Cullen is recommending to the Planning Board to grant a special permit to SMC Reality Trust.

On a motion made by Mr. Kerrigan, seconded by Mr. Coveney with opposition from Mr. Hodge it was duly voted:

To approve the findings and facts and the special permit for a Limited Development Subdivision located 197 Stow Road as allowed under Section 200-30 of the City Code, as the developer has met all of the requirements of that section of the Zoning Ordinance of the City of Marlborough.

DEFINITIVE SUBDIVISION SUBMISSIONS

SCENIC ROADS

SIGNS

INFORMAL DISCUSSION

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COMMUNICATIONS/CORRESPONDENCE

On a motion by Mr. Kerrigan, seconded by Mr. Hanson, it was duly voted:

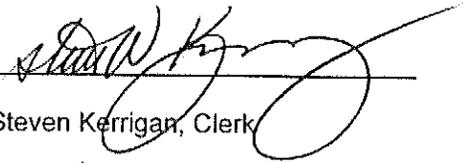
To accept all of the items listed under communications and/or correspondence.

On a motion by Mr. Johnson, seconded by Mr. Kerrigan, it was duly voted:

To adjourn at 9:15 p.m.

A TRUE COPY

ATTEST:



Steven Kerrigan, Clerk